

1 JUDGE STEINBERG: I'm lucky.

2 BY MR. ROMNEY:

3 Q Have you been able to show it to the Judge for his
4 satisfaction, sir, where Mary Hardin Baylor is?

5 JUDGE STEINBERG: Yes, sir.

6 MR. ROMNEY: Thank you.

7 JUDGE STEINBERG: I'm a happy man now.

8 MR. ROMNEY: I knew you would be, Judge.

9 BY MR. ROMNEY:

10 Q It is not your testimony to the Court today, sir,
11 that it takes four to five hours to get from Mary Hardin
12 Baylor over to Junction, is it?

13 A Yes, sir. Well, from Mary Hardin Baylor to
14 Junction, it would take -- it would have to be 180, nearly
15 200 miles. It would be right at 200 miles.

16 Q Sir, your testimony today in response to one of
17 Mr. Knowles-Kellett's question was that it took you from six
18 to eight hours to get from your home down to Junction.

19 Did you say that?

20 A No, sir.

21 Q What did you say?

22 A I said six to seven hours according to the traffic
23 and how many deer you run into.

24 Q And you testified to the Court today that it takes
25 two to two and a half hours to get down to Mary Hardin

1 Baylor from your house, right?

2 A Yes, sir.

3 JUDGE STEINBERG: He didn't say that.

4 MR. ROMNEY: What did he say?

5 JUDGE STEINBERG: I'll ask the witness. Just
6 answer the question.

7 MR. ROMNEY: He just said it again.

8 JUDGE STEINBERG: Well, he agreed.

9 MR. ROMNEY: Yes.

10 JUDGE STEINBERG: But that's -- I'm not going to
11 say anything. How long does it take to get from your house
12 by car to Mary Hardin Baylor?

13 THE WITNESS: Okay, it takes two, two hours, two
14 and a half hours.

15 JUDGE STEINBERG: Okay. But that's not what he
16 said before, and if you read the transcript --

17 MR. ROMNEY: From Mary Hardin Baylor to his house
18 he said two to two and a half hours.

19 THE WITNESS: Less.

20 MR. KNOWLES-KELLETT: Well, he said it now.

21 JUDGE STEINBERG: Okay, he said it now.

22 MR. ROMNEY: Yes.

23 MR. PEDIGO: It was one and a half to --

24 JUDGE STEINBERG: Two hours, that's what he said
25 before twice.

1 THE WITNESS: It's according to how fast you
2 drive.

3 MR. ROMNEY: Okay.

4 JUDGE STEINBERG: Mr. Pedigo, you remember it the
5 way I remembered it.

6 MR. PEDIGO: Yes, sir.

7 JUDGE STEINBERG: Okay, so we have sort of a tie.

8 MR. ROMNEY: I'm sorry, Your Honor.

9 JUDGE STEINBERG: That's okay. I mean, I just
10 didn't remember it and I wanted to clarify it.

11 MR. ROMNEY: Okay.

12 THE WITNESS: Well, it's according who is driving.
13 You know, that's part of it. If the kids are driving, you
14 go quicker.

15 BY MR. ROMNEY:

16 Q But you're not telling the Court that it takes
17 another four hours to get from Mary Hardin Baylor over to
18 Junction, are you?

19 A Yes, sir.

20 Q What route do you take, sir?

21 A Well, it's 200 miles and you don't have interstate
22 except for a short stretch of it.

23 MR. ROMNEY: Your Honor, I'm going to request an
24 opportunity to do some research on that issue, on the
25 mileage between Junction, and I would ask that the witness

1 be --

2 MR. MCVEIGH: Your Honor.

3 MR. ROMNEY: -- be available to get that. I can't
4 do that right now.

5 MR. MCVEIGH: Your Honor, the map has a scale of
6 miles on it.

7 MR. ROMNEY: It doesn't show from Junction to
8 anywhere, I'm sure.

9 MR. MCVEIGH: It shows the entire state and it
10 shows a scale for the entire state. You can measure out the
11 distances precisely.

12 JUDGE STEINBERG: Well, I don't think -- I don't
13 think we will take the time to do it now, right now. But
14 may I ask counsel what the relevance is of the mileage or
15 the time it takes to get from Belton to Junction?

16 MR. ROMNEY: From Belton to Junction?

17 JUDGE STEINBERG: Yes, how is that relevant --

18 MR. ROMNEY: It's testing his testimony, Your
19 Honor, on how long it takes him to get from his house down
20 to his aunt's house in Junction, Texas, which supposedly
21 takes six to seven hours, Your Honor.

22 JUDGE STEINBERG: Oh, okay.

23 MR. ROMNEY: I don't believe that. I'm sorry. I
24 don't believe it take that long.

25 JUDGE STEINBERG: Okay, I don't want --

1 MR. ROMNEY: You can get to Corpus Christi in
2 seven hours from Mesquite.

3 JUDGE STEINBERG: Now, you're telling another
4 city.

5 MR. ROMNEY: That's clear down by the coast. I
6 mean, it's a lot further than Junction, I can tell you
7 that --

8 JUDGE STEINBERG: Corpus Christi, is that TCU
9 country?

10 MR. ROMNEY: No, it's Fort Worth.

11 JUDGE STEINBERG: Forth Worth.

12 THE WITNESS: It's close to Mexico. You are also
13 in another country, Corpus is.

14 MR. ROMNEY: I'll go onto another question, Your
15 Honor, if you want me to.

16 JUDGE STEINBERG: Okay. No, I'm just -- I'm
17 just -- well, could the witness step out of the room for a
18 minute. Let's go off the record while the witness does
19 that.

20 (Discussion off the record.)

21 JUDGE STEINBERG: We're back on the record.

22 BY MR. ROMNEY:

23 Q Mr. Sumpter?

24 A Yes, sir.

25 Q Did you ever visit your aunt by yourself?

1 A No, sir.

2 Q Never?

3 A Since 1991, her husband, my uncle died, and after
4 that I never visited her by myself.

5 Q Why?

6 A Why?

7 Q Yes.

8 A Well, she was sickly and my wife was her primary
9 care giver. She went to the doctor with her, took care of
10 her, same as it is today. And there would be trips down
11 there would simply be to try to evaluate her and look at her
12 and see what condition she's in, and it took my wife to do
13 that. She's hard of hearing. She is nearly deaf. My wife
14 is one of the few people in the world that can even talk to
15 her, and she can hear. She can't hear me much.

16 Therefore, I -- I never went down there by myself.
17 I always took my wife with me.

18 Q It's your testimony to this Court under oath today
19 that from 1990 -- when? When did your uncle die?

20 A '91.

21 Q Since 1991, sir, till the present you have never
22 taken a trip down to Junction to visit your aunt where you
23 didn't have your wife with you?

24 A No, sir, I don't recall. But let me say that --
25 can I add to that?

1 Q Sure.

2 A Okay. Especially during the period we are talking
3 about in '96. This was critical because she was sick. She
4 had passed out, had blacking out spells. She had been to
5 the hospital. I know during that time that I never went
6 down there by myself because I couldn't have accomplished
7 what I wanted to go to accomplish by myself. I needed my
8 wife to help me evaluate her during that period.

9 Q You're not capable of evaluating her by yourself?

10 A Not as well as my wife is.

11 Q Request that you turn to Exhibit No. 19, page 208.

12 A Is this No. 19?

13 Q The big book, right.

14 A 208?

15 Q Yes, sir.

16 A I've got it.

17 Q Have you got that in front of you, sir?

18 A Yes, sir.

19 Q I believe you testified that it doesn't look like
20 Jennifer's handwriting?

21 A It looks like it.

22 JUDGE STEINBERG: I don't know that he testified
23 to that. Did he?

24 MR. KNOWLES-KELLETT: I didn't ask him about this
25 document.

1 THE WITNESS: I don't recall.

2 MR. KNOWLES-KELLETT: He hasn't commented on the
3 22nd yet.

4 MR. ROMNEY: On any of them?

5 MR. KNOWLES-KELLETT: On the 18th.

6 JUDGE STEINBERG: The only one on the 22nd, I
7 believe, he was asked about was the Norma one.

8 MR. ROMNEY: Norma? Oh.

9 JUDGE STEINBERG: Is the 22nd a Saturday?

10 MR. ROMNEY: Yes.

11 MS. LAWRENCE: Yes, sir.

12 JUDGE STEINBERG: Then that's the only one that he
13 was asked about.

14 BY MR. ROMNEY:

15 Q Does this look like Jennifer's handwriting?

16 A It looks like it.

17 Q Page 216?

18 A Same.

19 Q Does that look like Melissa's handwriting?

20 A Yes, sir.

21 Q Page 200.

22 A Two hundred. Yes, sir, I've got it.

23 Q Does that look like Norma's signature?

24 A Yes, sir.

25 Q After you learned -- I'm sorry.

1 JUDGE STEINBERG: Can you -- is your copy decent
2 enough to be able to see the date?

3 THE WITNESS: Twenty-two.

4 JUDGE STEINBERG: I mean, does the date look like
5 it's Norma's date? Is that the way she writes numbers?

6 THE WITNESS: No, sir. I can't see it well enough
7 to tell you that.

8 JUDGE STEINBERG: Okay.

9 THE WITNESS: I can't see it.

10 JUDGE STEINBERG: Okay, you can't answer the
11 question, so that's fair.

12 THE WITNESS: Okay.

13 JUDGE STEINBERG: No, they are all about the same.

14 THE WITNESS: Now, you didn't ask me if I believe
15 that was their signature.

16 MR. ROMNEY: No, sir, I did not.

17 THE WITNESS: Okay. I wanted to make sure I
18 understood you.

19 MR. ROMNEY: Did you have a question, Your Honor?

20 JUDGE STEINBERG: No, I -- I did but I'm not going
21 to ask it.

22 BY MR. ROMNEY:

23 Q Were you aware that the Brashers sold the 800
24 system sometime in the eighties?

25 A Sir, I don't know what an 800 system is. I am

1 aware they sold -- sold a system. That was the system that
2 I thought that my -- Jennifer's car radio that we talked
3 about earlier was on, but I don't know what an 800 system
4 is. Sorry.

5 Q Did you assist the Brashers in doing some
6 financial planning for the sale of that business, that
7 system?

8 A That system. Could have and not knowing if it's
9 800. I assist them in the sale of some kind of system, but
10 I don't know if it's 800.

11 Q In the system that you helped them sell, were you
12 aware of the profit that they made on the system?

13 A The only way I assisted them was to try to
14 determine the tax consequence of the sale.

15 Q Well, to determine the tax consequence you would
16 have to have some understanding of the profits they are
17 making, correct?

18 A Well, you would have to have an understanding of
19 the sales price and the basis, not the profit you are
20 making.

21 Q What was the difference between the sale price and
22 the basis? Do you recall?

23 A I don't recall.

24 Q Was it more than \$400,000?

25 MR. MCVEIGH: Objection. He already stated that

1 he doesn't recall.

2 MR. ROMNEY: Oh.

3 JUDGE STEINBERG: Well, we're helping the witness
4 remember, helping him refresh his recollection, and it's a
5 legitimate question. Overruled.

6 THE WITNESS: Sir, I don't remember the amount.
7 It was a substantial amount.

8 JUDGE STEINBERG: In your estimation is a profit
9 of \$400,000 what you would define substantial amount?

10 THE WITNESS: Yes, sir.

11 BY MR. ROMNEY:

12 Q After you received the Net Wave petition and your
13 dealings with this license that apparently had been applied
14 for in your name, were you in fear of losing your CPA
15 license?

16 A Well, it certainly was a consideration. I mean, I
17 get this Net Wave petition. There is obviously something
18 deceptive going on. My name is on there and I've never
19 signed a license. There is my wife and daughters' names on
20 there who we understood the license had been transferred,
21 and there were two dead people on there, and it had my name
22 on it.

23 Yeah, I was concerned about someone looking at me
24 and saying are you involved in something that's deceptive.

25 Q And you were afraid that it could somehow lead to

1 the loss of your CPA?

2 A Absolutely. That's being unethical.

3 Q And if you lost your CPA license, you would lose
4 your livelihood, right?

5 A Yes, sir.

6 Q And your family goes into financial ruin, correct?

7 A Well, I used to do other kind of work. I might
8 could do some other kind of work. I don't know.

9 Q In preparation for your deposition testimony you
10 met with your family, your wife and your two daughters, for
11 three to four hours just prior to that deposition; is that
12 correct?

13 A Yes, sir.

14 Q The weekend before?

15 A Yes, sir.

16 Q And in preparation for your testimony today you
17 had an opportunity to meet with your daughters and your wife
18 at your hotel and go over documents; is that correct?

19 A Yes, sir, we did.

20 Q And you spent many hours doing that; is that
21 right?

22 A I spent -- we spent some hours because we wanted
23 to bring the truth here, and that's what we are trying to
24 do.

25 Q And you went over the things that you had filed

1 and you made sure that nobody's story deviated from what had
2 been on the record already; is that correct?

3 A That wasn't the idea. The idea was to tell the
4 truth. That's always been our motive is to tell the truth
5 in this. That's the only thing that's drive us, to sit down
6 and go over the facts. It's not to get Ronald Brasher, it's
7 not to do anything but to tell the truth.

8 Q But if your recollection -- if somebody's
9 recollection changes, then that's a big problem for the
10 whole family, right?

11 MR. MCVEIGH: Objection; calling the witness to
12 speculate.

13 JUDGE STEINBERG: Overruled.

14 THE WITNESS: Say again.

15 BY MR. ROMNEY:

16 Q If somebody's recollection of the facts was to
17 differ or change from what's previously been on the record,
18 that would be a problem not only for that person but for the
19 whole family, right?

20 A You make it sound like we've got some big story to
21 give the --

22 Q No. My question, sir, please. I believe you can
23 answer that yes or no.

24 If somebody's testimony were to change or deviate
25 from what has previously been on the record, that would be a

1 problem for the whole family?

2 MR. KNOWLES-KELLETT: Objection; vague and
3 ambiguous. I don't understand what he means --

4 JUDGE STEINBERG: Overruled.

5 MR. KNOWLES-KELLETT: -- by "problem".

6 JUDGE STEINBERG: It's overruled.

7 THE WITNESS: No.

8 BY MR. ROMNEY:

9 Q It would not be a problem?

10 A No.

11 Q And it would not upset you?

12 A All we look for is the truth, Mr. Romney.

13 MR. ROMNEY: Pass the witness, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. PEDIGO:

16 Q Good afternoon, Mr. Sumpter. My name is Lawson
17 Pedigo. Myself and Ronnie Wilson, we represent Diane and
18 David Brasher.

19 A I'm glad to meet you.

20 Q Could I ask you something about your
21 qualifications? You are a CPA licensed in the State of
22 Texas; is that correct?

23 A Yes, sir.

24 Q And how long have you been licensed as a CPA?

25 A Since 1982.

1 Q Okay. And what does it take to get a CPA license
2 in the State of Texas?

3 A Well, qualifications now are different than they
4 were when I got them.

5 Q Well, when you go them what were the
6 qualifications?

7 A It took an accounting degree and pass the exam.

8 Q Okay. When you say "pass the exam," what exam are
9 you referring to?

10 A The CPA exam.

11 Q And does the CPA exam have four parts on it? Are
12 you familiar with that?

13 A Yes, sir.

14 Q And is one of those parts business law?

15 A Yes, sir.

16 Q So to become a CPA, you have to have some
17 familiarity with a wide range of business law topics; isn't
18 that correct?

19 A Wide range, yes, sir.

20 Q And as a CPA, you have to engage in continuing
21 professional education to keep your license current; isn't
22 that correct?

23 A Forty hours a year.

24 Q And you've done that, haven't you?

25 A I wouldn't be a CPA if I hadn't.

1 Q The answer is yes?

2 A Yes, sir.

3 Q In fact, you testified earlier you felt
4 comfortable enough with your familiarity of business law to
5 give Ron Brasher advice on how to do the severance of
6 employees so that their taxes would be lower? Do you recall
7 that testimony?

8 A State unemployment tax.

9 Q Correct.

10 A Okay.

11 Q And what kind of legal advice did you give them on
12 that topic?

13 A Well, it's fairly simple. It's not legal advice.
14 I can't give legal advice. I am not admitted to the bar.

15 Q Oh, I know you can't.

16 A I mean, I can't give legal advice.

17 Q I understand you can't.

18 A Okay.

19 Q Okay. What was the nature of the advice you gave
20 them?

21 A The nature of the advice that I gave was that if
22 you fire someone for cause, it's best to have it documented
23 because if they file for unemployment you will have
24 something to use to fight the charge, if you fire someone
25 for cause. Therefore, it would be better if you document it

1 or have them sign a letter or some way that you can say that
2 this is the reason we are dismissing you.

3 Q A fight for -- wait. What did you say? If you
4 wanted to fight that?

5 A Well, what happens in Texas, sir, is that if
6 someone leaves their job, they can go to the Texas Work
7 Force Commission and file for unemployment. Then the
8 employer is allowed a certain period to contest that. If
9 the employer does not contest that, that makes the rate go
10 up the following year, and so it's better therefore to
11 contest it.

12 And when you go to contest it, if you have not
13 documented the situation of the employee leaving, you know,
14 you don't have anything to substantiate your decision.

15 Q So there would be an adversarial hearing or
16 process that takes place; is that correct?

17 A Between the employer and the Texas Work Force
18 Commission.

19 Q And so your advice was how to have evidence to
20 help your position in this adversarial process; is that
21 correct?

22 A That's correct.

23 Q Now, what accounting course taught you that
24 particular body of knowledge?

25 A None.

1 You want to know how I learned it?

2 Q We will let Mr. Knowles-Kellett ask you that
3 question.

4 A Okay.

5 Q You talked about your billing of DLB Enterprises.
6 Do you recall that?

7 A My billing?

8 Q Yes.

9 A I don't recall talking about my filling.

10 Q Well, do you remember using the word just several
11 hours ago about a flat rate for monthly --

12 A Oh, okay. Yes, sir. I'm sorry. I do remember.

13 Q Okay. What was that flat rate for the monthly
14 work?

15 A It changed. I believe at the time that -- it was
16 \$350 for a month for a long time. At one time it was \$450 a
17 month. I believe it -- I'm working from recollection here,
18 sir, but I believe it was 450, and when they computerized
19 the receivables and payables that I talked about earlier, we
20 dropped \$100 off the fee because we weren't doing as much
21 work then.

22 Q As their business expanded, I presume it took more
23 time to do the same work; is that correct?

24 A Well, if you're talking about my fee, my fee was
25 much less than that when we started. It built up to that.

1 Q Is that because the volume of work changed?

2 A Yes. Yes, sir.

3 Q Okay. So is it fair to say that as the T-band,
4 sales of the T-band repeater service took off there would be
5 more work and your accounting outfit would make more money
6 off this assignment; isn't that true?

7 MR. MCVEIGH: Objection; lack of foundation as to
8 component of T-band repeater operation in the business and
9 the witness's familiarity with that component of the
10 business.

11 JUDGE STEINBERG: Lay a foundation, please.

12 BY MR. PEDIGO:

13 Q You understand that in this proceeding the
14 Brashers believe you and your family members knew that you
15 had put in applications that resulted in T-band license, or
16 license for additional statements. Did you understand that,
17 the nature of that allegation?

18 A Yes, sir.

19 Q Okay. My question to you is isn't it -- is it
20 true that if there had been a larger customer that DLB could
21 take on because of this new system, then that would have
22 been more accounting work for you and more fees?

23 A I would love for all my clients to grow and we can
24 charge them more fees, if that's your question.

25 Q I understand that. It's just a simple question.

1 A Right. Sure.

2 Q You would like their business to do well?

3 A Sure.

4 Q And Ron -- in fact, I think he told us, Ron talked
5 to you about wanting to grow the business, correct?

6 A Sure. Absolutely.

7 Q And you gave him advice exactly on how to do that?

8 A No, I didn't give him advice on that.

9 Q General business advice that you thought was in
10 the interest of DLB Enterprises; did you discuss that kind
11 of topic with him?

12 THE WITNESS: Did he say "stock"?

13 MR. KNOWLES-KELLETT: No, no, no.

14 THE WITNESS: I'm sorry. I'm sorry, sir. He got
15 me --

16 MR. ROMNEY: Let me take another start at that.

17 THE WITNESS: Okay.

18 BY MR. ROMNEY:

19 Q You did have conversations over several year
20 periods involving the DLB Enterprises' business correct?

21 THE WITNESS: Objection; vague. Conversations
22 with whom?

23 JUDGE STEINBERG: With anybody.

24 MR. PEDIGO: With Ron Brasher.

25 THE WITNESS: Well, your accountant, talk to your

1 accountant constantly about your business. Yes.

2 BY MR. ROMNEY:

3 Q All right. So you had a general awareness of DLB
4 Enterprises' business and how they were trying to grow the
5 business; is that correct?

6 A Yes, sir.

7 Q You did understand if his business grew like any
8 customer, that would be good for your accounting practice,
9 correct?

10 A Absolutely.

11 Q And if his business did not grow and the
12 competitor got a leg-up on DLB Enterprises, that would be
13 bad for your customer and bad for your accounting practice?

14 A If his competitors were doing a better job than
15 him, that would be bad for me?

16 Yes, basically. That's the way with any client.

17 Q I understand that.

18 A Okay.

19 Q So there would be an economic incentive for you to
20 assist in submitting an application for a license if that
21 was going to be used to grow the business; isn't that true?

22 A That's hard to answer. I'll say this; there is no
23 economic --

24 Q Excuse me. Can you answer my question? If you
25 don't understand it, I'll ask it again.

1 A Okay.

2 Q You did not understand it?

3 A Didn't understand.

4 Q Okay.

5 A Or I'm not sure. Go ahead. Let me try it again.

6 Q Let me try it again.

7 A Try it again.

8 Q You understood that you had an economic incentive
9 for applications to be submitted and license to be granted
10 so that this business could grow; isn't that correct?

11 A I had an incentive to -- are you saying that I
12 would do a license to help the business grow?

13 Q Would you agree that it would be in your economic
14 interest to do that?

15 A No.

16 Q I thought you said you wanted all your customers
17 to grow.

18 A I know, but I didn't want a license. That gives
19 me liability.

20 Q Oh, it did?

21 A Sure. Why am I here?

22 Q You think that you're here because of your
23 liability?

24 A Why else?

25 Q Okay.

1 A I would have gone home yesterday or last week.

2 Q All right. You're familiar with -- I think you
3 talked about compilations. Do you know what that term
4 means?

5 A Yes, sir. I'm a CPA.

6 Q Okay. And that would be a special report that
7 CPAs routinely put out; is that correct?

8 A It's not a report. It's a putting together the
9 financial statements. You issue a report that goes with it,
10 but the compilation is actually taking the data that the
11 client gives you and then putting it in the form of
12 financial statements.

13 Q Okay. What kind of sampling or testing do you do
14 of the information the client gave you?

15 A Zero. And you say that in your report because
16 it's not an audit and it's not a review.

17 Q And that would be the industry-wide practice?

18 A Yes, sir.

19 Q In fact, you would file tax returns just taking
20 the client's raw data; isn't that correct?

21 A Yes, sir.

22 Q Oh, I'm sorry, just taking their books and
23 records.

24 MR. KNOWLES-KELLETT: Objection, Your Honor. This
25 is going way beyond the scope of the direct. He has had

1 some leeway.

2 JUDGE STEINBERG: If I recall, you asked the
3 witness what he did as a CPA for DLB, and this is -- if you
4 tie it in did he ever do this for DLB -- maybe he didn't do
5 it for DLB.

6 MR. PEDIGO: I can go in a second, Your Honor.

7 MR. KNOWLES-KELLETT: -- acceptable accounting
8 practice. It's going to that other matter, I think.

9 JUDGE STEINBERG: Mr. Romney?

10 MR. ROMNEY: Well, just as an aside, I mean, I
11 don't think there is any kind of rule or code of evidence
12 that limits cross. It's redirect. They can't go beyond the
13 scope of cross-exam.

14 JUDGE STEINBERG: But you can -- okay, the
15 objection is overruled if you can tie it in.

16 Did you ever do compilations for DLB?

17 THE WITNESS: Yes, that's what I did.

18 JUDGE STEINBERG: And that was part of your duties
19 and function as a CPA?

20 THE WITNESS: Yes, sir.

21 JUDGE STEINBERG: It's tied in.

22 THE WITNESS: Okay.

23 BY MR. PEDIGO:

24 Q Could you do a compilation using a case basis
25 method of accounting even if DLB was set up as an approval

1 basis business?

2 A Are you saying could I?

3 Q Is that allowed as a CPA?

4 A Yes, sir. As is -- sorry.

5 Q Let me ask you about the car phones that you've
6 discussed with both attorneys so far.

7 A Car phone?

8 Q The car phone.

9 A Okay.

10 Q And that was installed in Jennifer's Red Nissen;
11 is that correct?

12 A Yes, sir.

13 Q Okay. How many years or months was that phone
14 provided to Jennifer?

15 A '89 to '92. I'd say three years.

16 Q We will say 36 months; is that fair?

17 A It's as good a guess as I can make.

18 Q Okay. When that phone service or that radio
19 service was switched to another provider, you testified you
20 did receive a bill; is that correct?

21 A Yes, sir, I did.

22 Q And what was the approximate monthly rate that
23 other provider billed you for?

24 A I have it in my mind that it was \$54. That's what
25 I have in my mind.

1 Q \$54 a month?

2 A A month.

3 Q Okay. And that was the market rate of the value
4 of that service?

5 A I don't have any idea.

6 MR. MCVEIGH: Objection; calling for the witness
7 to speculate.

8 BY MR. PEDIGO:

9 Q Well, do you have any reason to believe that you
10 were charged above the market rate?

11 A I don't know.

12 Q You just know that's what that provider charged
13 you?

14 A Yes, sir.

15 Q Okay. As an accountant, it wouldn't be fair when
16 you are trying to assign that value to that service to use a
17 market rate?

18 A I wasn't in a position to decide the market rate.
19 I wasn't -- I didn't decide that I would get billed for it.
20 They sent me this bill. I had to deal with it.

21 Q Do you have any other information we should use to
22 assign a value to that phone service provided other than
23 what you were charged later?

24 A No, sir, I don't know.

25 JUDGE STEINBERG: Do you remember how many months